

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VU TRONG NGUYEN,
Petitioner,

No. C 04-4104 MHP (pr)

ORDER

v.

DERRAL ADAMS, warden,
Respondent.

Petitioner's motion for an extension of time to file a notice of appeal is GRANTED. (Docket # 38.) The original deadline to appeal is extended by thirty days. The notice of appeal filed on December 9, 2008 therefore is timely.

Petitioner's application for a certificate of appealability is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). (Docket # 40.) Petitioner has not demonstrated that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." Slack v. McDaniel, 529 U.S. 473, 484 (2000). Petitioner's motion for appointment of counsel to assist him in the preparation of an application for certificate of appealability is DENIED. (Docket # 41.)

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

IT IS SO ORDERED.

DATED: January 20, 2009


Marilyn Hall Patel
United States District Judge